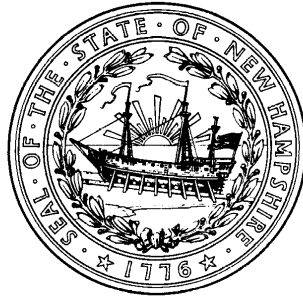


GUIDE TO THE GAMES OF CHANCE STATUTE
RSA CHAPTER 287-D



Office of the Attorney General
Charitable Trusts Unit
33 Capitol Street
Concord NH 03301-6397

Telephone: (603) 271-3591
Fax: (603) 271-2110 or (603) 223-6207
Website: www.nh.gov/nhdoj/charitable/

Peter W. Heed
Attorney General

Michael S. DeLucia
Senior Assistant Attorney General
Director of Charitable Trusts

Terry M. Knowles
Registrar of Charitable Trusts

Audrey Blodgett
Paralegal

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INTRODUCTION

Chapter 251 of the Laws of 1998 became effective on August 24, 1998. This chapter amended RSA 287-D by adding new sections that established a license application procedure for games of chance, giving concurrent regulatory authority to the Attorney General and the Chief of Police in each municipality and requiring the filing of financial reports by the charitable organization conducting the game of chance.

As required by the new law, the Attorney General drafted the forms for the Application for License and Financial Report. The Charitable Trusts Unit also informed the public regarding the new law by posting information on its website, sending mailings to the New Hampshire charities registered with the Unit and all police chiefs in the State, and speaking to any group that made a request, including the New Hampshire Association of the Chiefs of Police.

This Guide includes the text of all memos sent to Chiefs of Police and charities regarding RSA 287-D. The versions of the law and forms included in this Guide are the most recent issued by the Unit.

It is hoped that this Guide will assist the Chiefs of Police in their duties regarding this law, and charities in their quest for new avenues of funding. Please contact either Terry Knowles or Audrey Blodgett of the Charitable Trusts Unit with any suggestions or questions.

Peter W. Heed
Attorney General

Michael S. DeLucia
Director of Charitable Trusts

MEMO TO CHIEFS OF POLICE DATED JULY 20, 1999

TO: Chiefs of Police
State of New Hampshire

FROM: Terry M. Knowles, Registrar
Charitable Trusts Unit

RE: Games of Chance

RSA 287-D was amended effective August 24, 1998 to address concerns raised regarding the operation of games of chance in the State of New Hampshire. The new sections include (1) a license application process giving concurrent regulatory authority to both the Attorney General and the Chief of Police in each municipality and (2) financial reporting requirements for the charitable organization.. The Attorney General was given authority to create application forms for both requirements under the provisions of RSA 287-D:2-a.

Pursuant to this law we have drafted a document entitled APPLICATION FOR LICENSE TO CONDUCT GAMES OF CHANCE PURSUANT TO RSA 287-D which is enclosed herewith. You may photocopy this form and distribute it to those charitable organizations seeking a license to operate games of chance in your community. We will also maintain a supply of these forms in our office and will provide it to charitable organizations upon request.

The charitable organization applicant issued a license under the provisions of RSA 287-D:5 must file a financial report with the Attorney General and the Police Chief within fifteen (15) days after the expiration date of the license. This financial reporting form is being drafted and will be mailed to you within the next few weeks.

If you have any questions please feel free to contact me by telephone at 271-3591 or send e-mail messages to: **terry.knowles@doj.nh.gov**

Thank you for your cooperation.

enclosure

APPLICATION FOR LICENSE

See following page for form.

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUSTS UNIT**

*
*
*
*

**APPLICATION FOR LICENSE
TO CONDUCT GAMES OF CHANCE
PURSUANT TO RSA 287-D**

This Application for License must be filed with the Department of Justice, Office of the Attorney General, Charitable Trusts Unit, 33 Capitol Street, Concord, NH 03301-6397 and the Chief of Police for the municipality in which the games of chance are to be conducted at least fifteen (15) days prior to the first game date of each month. A \$25.00 application fee made payable to the appropriate city or town treasurer must accompany the copy filed with the Chief of Police. No license shall be issued unless the application form is fully completed by the duly authorized officer, director, or official of the charitable organization.

-
1. Name and address of charitable organization:

 2. Name, title, and residence address of duly authorized officer, director, or official of charitable organization:

 3. Date of incorporation: _____ (See RSA 287-D:1, III, which requires that charitable organizations defined by this statute be incorporated for at least two years prior to filing this application)

 - *4. A copy of the Letter of Determination of Tax Exempt Status issued by the Internal Revenue Service **must** be attached to this application (see note below).

*5. A copy of the Articles of Agreement which states the purpose of the charitable organization **must** be attached to this application (see note below).

6. Is the charitable organization registered with the Attorney General, Charitable Trusts Unit? Yes _____ No _____

If the answer is **yes**, please provide the registration # _____

If the answer is **no**, please advise in writing the reason(s) the charitable organization is not registered with the Attorney General, Charitable Trusts Unit.

7. A list of the names and addresses of the current bona fide members **must** be attached to this application.

8. Date(s) and location(s) of games of chance to be operated by charitable organization:

Date(s) of event: _____

Type of event: _____

Location of event: _____ (address)
_____ (city)

Any changes to the information provided in this application must be reported immediately to the Department of Justice, Office of the Attorney General, Charitable Trusts Unit and the Chief of Police for the municipality in which the games of chance are to be conducted.

I, _____, _____ of
(print name) (title)

_____, under oath hereby certify that I am
(name of charitable organization)

authorized to sign this certification and that (a) the information provided on this application is accurate; (b) only bona fide members of the charitable organization will operate the games of chance (c) that neither the applicant nor any member of the charitable organization who will be participating in the operation of the games of chance has been convicted of any crime or has violated the statutes or rules governing charitable gambling; and (d) the applicant and any member of the charitable organization who will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of the games of chance.

Title _____ Date: _____

STATE OF
COUNTY OF

Before me personally appeared _____, the signer of the foregoing Application for License to Conduct Games of Chance, who has acknowledged him/herself as such officer of the said charitable organization, and such officer being authorized to do so, has read the foregoing application, and has before me deposed and said that the above statements, and all attachments, are true and correct to the best of his/her knowledge and belief.

Notary Public

My Commission Expires: _____

Date: _____

NOTICES TO APPLICANT:

A complete financial report for each license issued must be submitted to the Office of the Attorney General, Charitable Trusts Unit and the Chief of Police within fifteen days after the expiration date of the license.

RSA 287-D:2-b, VI states that no person convicted of a criminal offense or violated certain statutes or rules shall participate under the statute. PLEASE NOTE: you may be asked for further information by the chief of police in the town in which you are applying for a permit for verification purposes.

***These documents must be attached to the first application filed by the charitable organization with each police chief. It will not be necessary to resubmit the information requested in paragraphs 4 and 5 unless changes or amendments occur. Any updated information or amended organizational documents must be submitted to the Attorney General and police chief at the time the application is filed.**

MEMO TO CHIEFS OF POLICE DATED AUGUST 20, 1999

TO: Chiefs of Police
State of New Hampshire

FROM: Terry M. Knowles, Registrar
Charitable Trusts Unit

RE: Games of Chance
Follow-Up Memo

A memo was sent by the Attorney General's Office to all Chiefs of Police dated July 20, 1999 regarding the new games of chance law RSA 287-D. Enclosed with that memo was the APPLICATION FOR LICENSE TO CONDUCT GAMES OF CHANCE PURSUANT TO RSA 287-D.

Since that time we have received numerous questions from police chiefs and nonprofit organizations concerning the implementation of the law. A separate memo is being mailed to all New Hampshire nonprofits. A copy of this memo is enclosed for your information. For your information and guidance I am enclosing a copy of a document entitled Statutory Guide to Application for License Form which specifies the exact statutory authority for each section of the application prepared by the Attorney General. The Guide also provides a definition for the term "games of chance", and makes reference to raffles, bingo, Lucky 7, and slot machines. The second page of the Guide specifies it is the Chief of Police and not the Attorney General who receives the application fee and issues licenses under RSA 287-D.

The new GAMES OF CHANCE FINANCIAL REPORT form is enclosed. You may photocopy this form and distribute it to those charitable organizations obtaining a license to operate games of chance in your community. We will also maintain a supply of these forms in our office and will provide it to charitable organizations upon request. The financial report must be filed with the Attorney General and the Police Chief within fifteen (15) days after the expiration date of the license.

As questions arise please feel free to contact me by telephone at 271-3591 or send e-mail messages to: **tknowles@doj.state.nh.us**

MEMO TO NH CHARITIES DATED AUGUST 19, 1999

MEMO TO: All New Hampshire Charities

FROM: Terry M. Knowles
Registrar
Charitable Trusts Unit
(603) 271-3591
tknowles@doj.state.nh.us

RE: RSA Chapter 287-D

DATE: August 19, 1999

As you may know, the legislature passed this new law which became effective on August 24, 1998. The purpose of this memo is to make you aware of the new requirement and I am enclosing for your information a copy of the law. For ease of reference, I have deleted cross references and annotations, and have included only the text of the law.

RSA 287-D was intended to regulate any gambling activities that were not previously regulated by statute. Therefore, the requirements to run raffles, Lucky 7 and bingo have not changed. However, if your organization is planning on conducting a 50/50, Las Vegas night, casino night, or other games of chance, you must follow the requirements of this law, and apply to your local police chief 15 days prior to the date of the first game. Your police chief will have the application form.

Please note the following:

- The original application and filing fee must be filed with the police chief, and a copy of the application sent to the Attorney General. We have 15 days to notify the police chief of any irregularities in your registration with the Charitable Trusts Unit. The police chief issues the license.
- Each organization is allowed 10 events per year.
- If you have hired a paid solicitor to conduct the game(s) of chance, this application must be completed in addition to the solicitation notice filed under RSA 7:28-b-d.
- A financial report is due to be filed with the police chief and the Attorney General within 15 days of the expiration of the license. Forms are available from your police chief.

Please feel free to contact either our Paralegal, Audrey Blodgett, or me with questions regarding this new law.

CHAPTER 287-D. GAMES OF CHANCE

Please note all citations have been omitted from this text.*

Sec. 287-D:1. Definitions.

287-D:1-a. Administration and Enforcement.

287-D:2. Games of Chance Authorized.

287-D:2-a. License Applications.

287-D:2-b. Operation of Games of Chance.

287-D:3. Equipment; Wagering; Prizes.

287-D:4. Agency Not Permitted.

287-D:5. Fees; Financial Reports and Inspections.

287-D:6. Penalty.

CROSS REFERENCES

Bingo and lucky 7, see RSA 287-E.

Raffles, see RSA 287-A.

§ 287-D:1. Definitions.

In this chapter:

I. "Bona fide member" means a person who has held full and regular membership in the charitable organization for a period of not less than 60 days immediately prior to the games of chance in which such person intends to participate. To qualify as a "full and regular" member of a charitable organization, a person shall:

(a) Satisfy all criteria for membership in the charitable organization.

(b) Pay all lawful fees or dues required by the charitable organization.

(c) Not have become a member solely for the purpose of operating games of chance.

II. "Games of chance" means any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, 50/50 raffles as defined in RSA 287-A:1, III, or ice-out contests as defined in RSA 287-D:1, IV.

* Statute enacted in Laws of 1977, Chapter 329; amended by Laws of 1995, Chapter 75, Laws of 1998, Chapter 251, Laws of 2000, Chapter 115, Laws of 2002, Chapter 17, Laws of 2003, Chapter 315.

III. (a) "Charitable organization" means any bona fide religious, charitable, civic, veterans', or fraternal or church organization, including police and firemen's organizations which shall have been registered with the secretary of state for at least 2 years and in existence for at least 2 years in a town or city in this state, provided that the primary activities conducted by the organization were for the purpose for which the organization was established and have not included charitable gambling operations; which is organized under the laws of this state; and to which contributions are exempt from federal income tax. To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

(1) Document that it is exempt from federal income tax.

(2) Establish that the purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the games of chance are conducted.

(3) Register with the secretary of state and, if required under RSA 7:19-32, with the director of charitable trusts.

(4) Maintain a current list of bona fide members.

(b) A charitable organization shall not include auxiliary units, committees, or other entities organized under the auspices of a charitable organization eligible for licensure under this chapter, when such auxiliary unit, committee, or other entity is organized for the primary purpose of conducting games of chance.

IV. "Ice-out contest" means a contest conducted by a charitable organization whereby a marker is placed on a frozen lake and the person most closely estimating the day and time the marker falls through the ice wins 1/2 the contest proceeds collected by the charitable organization.

§ 287-D:1-a. Administration and Enforcement.

The attorney general and the respective chief of police shall administer and enforce the provisions of this chapter.

§ 287-D:2. Games of Chance Authorized.

A charitable organization may conduct games of chance to promote the purpose for which it was organized, in the manner hereinafter provided and not otherwise:

I. [Repealed.]

II. No one may apply for a license for the operation of games of chance without first obtaining written permission of the owner of the property where the games will be conducted. Such permission shall be acknowledged before a notary public or justice of the peace and shall be obtained on a form supplied by the chief of police of said city or town.

III. The license shall authorize games of chance of a specified type on specified dates at specified times and at a specified location including agricultural fairs and other locations where nonprofit fundraising activities are conducted.

IV. The license shall not be transferable.

V, VI. [Repealed.]

§ 287-D:2-a. License Applications.

I. Applications shall be submitted to the respective chief of police and to the attorney general by an officer, director, or duly authorized official of the charitable organization. Proof of authority to submit the application on behalf of the charitable organization may be required.

II. Applications shall be made only on the forms supplied to the charitable organization by the attorney general.

III. No license shall be issued unless the application form is fully completed by the duly authorized officer, director, or official of the charitable organization.

IV. Applications shall be received by the chief of police and attorney general 15 days prior to the first game date of each month. This requirement may be waived by the attorney general for good cause shown.

V. The applicant shall certify under oath that:

(a) The information provided on the application is accurate.

(b) Only bona fide members of the charitable organization will operate the games of chance.

(c) That neither the applicant nor any member of the charitable organization who will be participating in the operation of the games of chance has been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or has violated the statutes or rules governing charitable gambling.

(d) The applicant and any member of the charitable organization who will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of games of chance.

§ 287-D:2-b. Operation of Games of Chance.

I. (a) Only bona fide members of charitable organizations shall operate games of chance; except that, if all bona fide members of a charitable organization are under 18 years of age, adult officers or directors of the charitable organization or parents or legal guardians of bona

fide minor members, who have been authorized by the officers or directors of the charitable organization, shall operate the games. Proof of bona fide membership shall be required.

(b) Notwithstanding subparagraph (a), if, by reason of the established criteria for membership, all bona fide members of the charitable organization are physically or mentally disabled, or both, the officers, directors, or authorized officials of the charitable organization may designate individuals to conduct the operation of games of chance on behalf of said charitable organization. Individuals so designated are subject to all applicable provisions of this chapter, and the designation of such individuals is subject to the approval of the chiefs of police.

(c) Notwithstanding subparagraph (a), all charitable organizations that conduct games of chance for charitable purposes may allow spouses, sons, and daughters of bona fide members who are at least 18 years of age to assist with the operation of the games of chance. A list of the names of the persons assisting shall be submitted to the chief of police prior to the scheduled game of chance event.

II. No compensation shall be paid to operators of a game of chance. Compensation shall include, but is not necessarily limited to, money or any other thing of value. Operators of games of chance may be reimbursed for their out-of-pocket expenses in an amount not to exceed \$8 per game date, provided that such expenses are itemized and submitted in writing to the charitable organization.

III. No one under the age of 18 years shall be admitted to the premises on which games of chance are being conducted, except when the games are being conducted at a carnival. Proof of age shall be produced upon request of the sweepstakes commission. When games of chance are conducted at a carnival, persons under the age of 18 years may be admitted to the premises on which the games are being conducted when accompanied and supervised by a parent or legal guardian; but persons under the age of 18 shall not be permitted to play games of chance at a carnival.

IV. No games of chance shall be conducted prior to 11:00 a.m. on a weekday, prior to noon on a Sunday, or after 1:00 a.m. on any day.

V. No person operating a game of chance and no person who has leased out a facility or sold or leased game of chance paraphernalia or related equipment to a charitable organization for use during games of chance shall participate or play in any game conducted at that location on that date.

VI. No person who has been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past in this or any other state shall operate a game of chance licensed under this chapter, or rent, lease, sublease, or otherwise provide any hall or game of chance paraphernalia for the conduct of games of chance licensed under this chapter.

§ 287-D:3. Equipment; Wagering; Prizes.

I. No game of chance shall be conducted with any equipment except such as is owned absolutely or used without payment or any compensation therefor by the licensee or as is rented at a fixed fee only from a dealer in such equipment who has his principal place of business in this state and who has registered with the secretary of state in such manner and on such form as the secretary of state prescribes.

II. Any and all devices and equipment used to conduct said games of chance shall be subject to inspection by duly authorized law enforcement officials.

III. No mechanism or device, which can be used to regulate odds, will be permitted to operate said games of chance and no progression in any form shall be permitted in the operation of any such game.

IV. A player of any game of chance and only a player shall activate any and all devices used for the purposes of wagering on said games of chance.

V. No single wager by a player, on any game of chance, shall exceed the amount of \$2.

§ 287-D:4. Agency Not Permitted.

No charitable organization shall act as an agent for conducting a game of chance, where it is unlawful for the charitable organization's principal to conduct such a game.

§ 287-D:5. Fees; Financial Reports and Inspections.

I. An applicant for a license under this chapter shall apply to the chief of police, and upon payment of a fee of \$25 and if the applicant meets all other requirements of this chapter, a license shall be issued. The fee shall be paid to the city or town treasurer for the use of the city or town. Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive.

II. A charitable organization shall submit a complete financial report for each license issued under RSA 287-D:2 and RSA 287-D:2-a to the respective chief of police and attorney general on forms supplied to the charitable organization by the attorney general within 15 days after the expiration date of the license.

III. The financial report shall be completed by the treasurer of the charitable organization or a duly authorized officer, director, or official of the charitable organization who shall certify such accounting under oath.

IV. The financial report shall include:

(a) A complete statement of all revenues and expenses.

(b) A record of the amount of prizes awarded.

(c) The names and addresses of the members who participated in the games of chance.

(d) The name and address of any fundraising counsel or paid solicitor involved in conducting the games of chance.

V. All expenses and all cash prizes over \$500 shall be paid by check, and the charitable organization shall retain canceled checks for the payment of expenses and prizes for a period of 2 years.

VI. All financial reports filed by charitable organizations shall be maintained by the chief of police and attorney general for a period of one year from the date of filing and shall be open to public inspection.

VII. All financial records pertaining to the games of chance shall be maintained by the treasurer of the charitable organization or other duly authorized director, officer, or official of the charitable organization and shall be made available to the attorney general or the respective chief of police upon request. The attorney general and chief of police may audit such financial records.

VIII. A charitable organization shall maintain complete and accurate documentation of all revenues and expenses contained in the financial reports for at least 2 years from the date the financial report is filed.

§ 287-D:6. Penalty.

I. In addition to any other penalties provided by law, any person who violates RSA 287-D shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. Each day on which a game of chance is played in violation of RSA 287-D shall constitute a separate offense.

GAME OF CHANCE FINANCIAL REPORT FORM

See following page for form.

STATE OF NEW HAMPSHIRE
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUSTS UNIT

*
*
*
*

GAMES OF CHANCE FINANCIAL REPORT

This financial report must be filed with the Department of the Attorney General, Charitable Trusts Unit, **and the appropriate police chief** within 15 days after expiration of your license. If your license covers more than 5 events, please make as many copies of this form as necessary to prepare an accurate report. Add attached pages as necessary. Please mail completed report to: Department of Justice, Office of the Attorney General, Charitable Trusts Unit, 33 Capitol Street, Concord, New Hampshire 03301-6397 **and the police chief.**

(1) Name and address of charitable organization:

(2) Report of Revenue and Expenses:

DATES:

Revenue

\$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Expenses:

Amount of Prizes Awarded: \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Supplies \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Telephone \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Postage \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Occupancy/rent \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Equipment rental and maintenance \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Printing and publications \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Other expenses (itemize on separate schedule and attach) \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Total expenses \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

Balance \$ _____ \$ _____ \$ _____ \$ _____ \$ _____

(3) Names and Addresses of Members Participating in Events:

Date: _____

Date: _____

Date: _____

Date: _____

Date: _____

(4) Name and Address of any Fund Raising Counsel or Paid Solicitor (if none, please indicate by "N/A"):

Date: _____

Signature (For the Charity)

CHARITY/ASSOCIATION ACKNOWLEDGMENT

Personally appeared _____ and took oath or affirmed that the foregoing Financial Report is true and accurate to the best of his/her knowledge and belief. Before me,

(seal)
Notary Public
My Commission Expires _____

STATUTORY GUIDE TO APPLICATION FOR LICENSE FORM RSA 287-D

THIS LAW BECAME EFFECTIVE ON AUGUST 24, 1998

This guide sets out for you the specific statutes that require the information requested in the Application for License Form drafted by the Attorney General's Office. It is our hope that any questions you may have or receive from a charitable organization can be answered by referring to this guide. If you have any questions and cannot find the answer here, feel free to call Registrar Terry Knowles or Paralegal Audrey Blodgett at 271-3591 at the Charitable Trust Unit.

DEFINITIONS:

GAMES OF CHANCE "means any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine." RSA 287-D:1, II

RAFFLES are regulated by towns and cities (RSA 287-A)

BINGO AND LUCKY 7 SALES are required by the Sweepstakes Commission (RSA 287-E)

SLOT MACHINES are prohibited

GAMBLING "means to risk something of value upon a future contingent event not under one's control or influence, upon an agreement or understanding that something of value will be received in the event of a certain outcome." RSA 647:2, II(d)

1. Name and address of charitable organization

RSA 287-D:1, III(a) "Charitable organization" means any bona fide religious, charitable, civic, veterans', or fraternal or church organization, including police and firemen's organizations which shall have been registered with the secretary of state for at least 2 years and in existence for at least 2 years in a town or city in this state, provided that the primary activities conducted by the organization were for the purpose for which the organization was established and have not included charitable gambling operations; which is organized under the laws of this state; and to which contributions are exempt from federal income tax. To be eligible for licensure under this chapter, a charitable organization shall do all of the following:

(1) Document that it is exempt from federal income tax.

(2) Establish that the purposes for which it was organized, other than charitable gambling, are furthered through activities conducted in the town or city in which the games of chance are conducted.

(3) Register with the secretary of state and, if required under RSA 7:19-32, with the director of charitable trusts.

(4) Maintain a current list of bona fide members.

2. Name, title, and residence address of duly authorized officer, director, or official of charitable organization.

RSA 287-D:2-a, I. Applications shall be submitted to the respective chief of police and to the attorney general by an officer, director, or duly authorized official of the charitable organization. Proof of authority to submit the application on behalf of the charitable organization may be required.

RSA 287-D:2-a, III. No license shall be issued unless the application form is fully completed by the duly authorized officer, director, or official of the charitable organization.

3. Date of incorporation

RSA 287-D:1, III(a) and (3) – See statute cited in paragraph 1 above

4. A copy of the Letter of Determination of Tax Exempt Status issued by the Internal Revenue Service must be attached to this application.

RSA 287-D:1, III(1) – See statute cited in paragraph 1 above.

5. A copy of the Articles of Agreement which states the purpose of the charitable organization must be attached to this application.

RSA 287-D:1, III(a) and (2) – See statute cited in paragraph 1 above

6. Is the charitable organization registered with the Attorney General, Charitable Trusts Unit?

RSA 287-D:1, III(3) – See statute cited in paragraph 1 above

7. A list of the names and addresses of the current bona fide members must be attached to this application.

RSA 287-D:1, I and III(a)(4) – See statute cited in paragraph 1 above

RSA 287-D:2-a, V(b), (c) and (d):

(b) Only bona fide members of the charitable organization will operate the games of chance.

(c) That neither the applicant nor any member of the charitable organization who will be participating in the operation of the games of chance has been convicted of any crime or has violated the statutes or rules governing charitable gambling.

(d) The applicant and any member of the charitable organization who will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of games of chance.

RSA 287-D:2-b, I(a), (b) and (c):

(a) Only bona fide members of charitable organizations shall operate games of chance; except that, if all bona fide members of a charitable organization are under 18 years of age, adult officers or directors of the charitable organization or parents or legal guardians of bona fide minor members, who have been authorized by the officers or directors of the charitable organization, shall operate the games. Proof of bona fide membership shall be required.

(b) Notwithstanding subparagraph (a), if, by reason of the established criteria for membership, all bona fide members of the charitable organization are physically or mentally disabled, or both, the officers, directors, or authorized officials of the charitable organization may designate individuals to conduct the operation of games of chance on behalf of said charitable organization. Individuals so designated are subject to all applicable provisions of this chapter, and the designation of such individuals is subject to the approval of the chiefs of police.

(c) Notwithstanding subparagraph (a), all charitable organizations that conduct games of chance for charitable purposes may allow spouses, sons, and daughters of bona fide members who are at least 18 years of age to assist with the operation of the games of chance. A list of the names of the persons assisting shall be submitted to the chief of police prior to the scheduled game of chance event.

RSA 287-D:5, IV(c). The names and addresses of the members who participated in the games of chance.

8. Date(s) and location(s) of games of chance to be operated by charitable organization:

RSA 287-D:2-b, IV. No games of chance shall be conducted prior to 11:00 a.m. on a weekday, prior to noon on a Sunday, or after 1:00 a.m. on any day.

RSA 287-D:5, I. An applicant for a license under this chapter shall apply to the chief of police, and upon payment of a fee of \$25 and if the applicant meets all other

requirements of this chapter, a license shall be issued. The fee shall be paid to the city or town treasurer for the use of the city or town. Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive.

Certification under oath

RSA 287-D:2-a, V. The applicant shall certify under oath that:

- (a) The information provided on the application is accurate.
- (b) Only bona fide members of the charitable organization will operate the games of chance.
- (c) That neither the applicant nor any member of the charitable organization who will be participating in the operation of the games of chance has been convicted of any crime or has violated the statutes or rules governing charitable gambling.
- (d) The applicant and any member of the charitable organization who will be participating in the operation of the games of chance is aware of all statutes and rules applicable to the operation of games of chance.

Financial Report

RSA 287-D:5.

I. An applicant for a license under this chapter shall apply to the chief of police, and upon payment of a fee of \$25 and if the applicant meets all other requirements of this chapter, a license shall be issued. The fee shall be paid to the city or town treasurer for the use of the city or town. Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive.

II. A charitable organization shall submit a complete financial report for each license issued under RSA 287-D:2 and RSA 287-D:2-a to the respective chief of police and attorney general on forms supplied to the charitable organization by the attorney general within 15 days after the expiration date of the license.

III. The financial report shall be completed by the treasurer of the charitable organization or a duly authorized officer, director, or official of the charitable organization who shall certify such accounting under oath.

IV. The financial report shall include:

- (a) A complete statement of all revenues and expenses.
- (b) A record of the amount of prizes awarded.

(c) The names and addresses of the members who participated in the games of chance.

(d) The name and address of any fundraising counsel or paid solicitor involved in conducting the games of chance.

V. All expenses and all cash prizes over \$500 shall be paid by check, and the charitable organization shall retain canceled checks for the payment of expenses and prizes for a period of 2 years.

VI. All financial reports filed by charitable organizations shall be maintained by the chief of police and attorney general for a period of one year from the date of filing and shall be open to public inspection.

VII. All financial records pertaining to the games of chance shall be maintained by the treasurer of the charitable organization or other duly authorized director, officer, or official of the charitable organization and shall be made available to the attorney general or the respective chief of police upon request. The attorney general and chief of police may audit such financial records.

VIII. A charitable organization shall maintain complete and accurate documentation of all revenues and expenses contained in the financial reports for at least 2 years from the date the financial report is filed.

Application fee goes to police chief.

RSA 287-D:5, I – See statute cited in paragraph regarding financial report above.

Police Chief issues the license, not the Attorney General.

RSA 287-D:5, I – See statute cited in paragraph regarding financial report above.

MEMO TO POLICE CHIEFS DATED MARCH 1, 2000

MEMO TO: All Police Chiefs

FROM: Terry M. Knowles, Register
Charitable Trusts Unit
(603) 271-3591
tknowles@doj.state.nh.us

RE: Update re Games of Chance Statute, RSA 287-D

DATE: March 1, 2000

Several issues have arisen since my last memo to the police chiefs regarding this statute, and I am therefore sending you an update on RSA 287-D.

- On December 11, 1999, my paralegal, Audrey Blodgett, and I spoke at the New Hampshire Association of Chiefs of Police meeting regarding this statute. If you did not attend the meeting but would like a copy of the handout, please call (271-3591) or e-mail Audrey (ablodgett@doj.state.nh.us) requesting a copy and she will mail it to you.
- One question that came up during this meeting but was not immediately resolved was whether towns and schools could run games of chance. A review of our statutes indicates that municipalities are not authorized to run a game of chance. School districts are considered to be part of the municipality. A PTO can run a game of chance, but it must be registered with this office and follow the application procedures in RSA 287-D.
- The application and financial report forms have been amended since they were first forwarded to you in July and August of 1999. The updated forms can be found on our website: www.state.nh.us/nhdoj/CHARITABLE/char.html. As these forms are amended, the new version will be posted on the website.
- As many of you know, one of the biggest controversies in administering this law has been the question of 50/50 games. Because 50/50 games are not defined as raffles in the statutes, this office has interpreted RSA 287-D to include those games. This year, HB 1405 has been introduced in the legislature which would define 50/50 games as raffles and not games of chance. Further information regarding this or any other bill can be found at www.state.nh.us/gencourt/gencourt/htm.
- When creating our database, the addressee for each police department was defaulted to the chief's name. My apologies if our database is not up-to-date. If a letter is received addressed to the former police chief, please call Audrey to correct the information. In addition, if you wish these letters to be addressed to someone else in your department, let Audrey know.

Please feel free to call or e-mail either Audrey or me with any further questions or comments.

TMK:ab

GAMES OF CHANCE FAQs

Note: The following was started as a handout to the New Hampshire Association of Chiefs of Police, and many of the questions it answers pertain to the Chiefs' point of view. However, charities may find helpful information here.

Since passage of RSA 287-D, the Charitable Trust Unit of the Attorney General's Office has mailed notices to police departments and all New Hampshire charities registered with the office. The Unit has received numerous telephone calls from charities and police departments around the State regarding the operation of games of chance. The following are the most frequently asked questions and our responses:

As a police chief, what are my responsibilities under RSA 287-D?

You are NOT responsible for making sure this office receives the application (RSA 287-D:2-a, I); the applicant IS responsible. You are responsible for issuing or denying the license under RSA 287-D:5.

Can I issue a license before hearing from the Charitable Trusts Unit?

No. The Attorney General's Office has 15 days to review the application. You will receive a letter from our paralegal stating our position on the application within that 15-day period. A copy of the letter will be mailed to the charity. If the application is approved, a blank financial report form will also be mailed to the charity at that time.

The statute provides that the Attorney General can waive the 15-day period. What criteria do you use to waive this?

During this initial implementation period, we are going to be fairly liberal in granting waivers. However, by the beginning of 2000, waivers will be granted only for a valid reason. Ignorance of the law is not a valid reason. The police department is not responsible for requesting this waiver; the request must come from the charity.

What happens to the fee if a license is denied?

The fee is a processing fee paid to the town/city, and the decision whether or not to refund the fee is made by the town/city.

If an application originally requests two days of games, and the applicant would like to add additional game days, does it have to file a new application with a new filing fee?

No. If the total number of days does not exceed ten (RSA 287-D:5, I) for the calendar year, the applicant can write a letter to both this office and you, requesting an amendment to the application to include the additional days.

A charity in my town has hired a paid solicitor to conduct this game of chance. Is that allowed?

A charity may hire a paid solicitor to advise it on conducting the game and renting any equipment for use during the game; an employee of the paid solicitor may be at the game to tender such assistance. However, RSA 287-D:2-b, I(a) requires that only bona fide members of the charity are to operate the game. RSA 287-D:1, I defines a bona fide member of the charity, and includes in subparagraph (c) a statement that a person shall “[n]ot have become a member solely for the purpose of operating games of chance.”

Some of the charities filing applications for games of chance are not registered with the Charitable Trusts Unit. What are your responsibilities in these cases?

Certain nonprofits, such as American Legions, VFWs, and Elks Clubs, are not required to register with the Charitable Trusts Unit because they are not primarily charitable in nature, and do not hold restricted charitable funds. In addition, churches are exempt from registration under the religious exemption of RSA 7:19, *et seq.* However, RSA 287-D does not exempt these organizations from the application process. When this office receives an application from such an organization, you will receive a letter from our paralegal stating that the organization is not required to register and the reasons why. That ends our involvement in the application process.

What happens if a charity that applies under RSA 287-D is not registered with your office and should be?

Our paralegal will send a letter to you stating the charity is not registered. In addition, the charity will receive a blank application form and a request to complete and file it as soon as possible.

RSA 287-D requires that a charity be on file with the Secretary of State’s Office for 2 years prior to filing an application. Does this include being on file with your office for 2 years?

No. The requirement under RSA 287-D:1, III(a), which defines a charitable organization authorized to apply for a game of chance, refers to being incorporated as a voluntary corporation under RSA Chapter 292. This is a separate filing than registration with the Charitable Trusts Unit. A charity can be registered with CTU and not be incorporated; however, if it is not incorporated, it cannot receive a license under RSA 287-D. Conversely, a nonprofit organization may be incorporated under RSA 292 but not registered with the Unit because it is not primarily charitable in nature (examples: lobbying groups, landowners associations), but again, those organizations cannot be issued a license under RSA 287-D.

AA conducts at least one meeting a week in our town. Do they need to apply under 287-D for a 50/50 game?

No. Because AA defines its members as those who attend their meetings, they are not soliciting from the general public but only their own membership. This type of solicitation does not come under the jurisdiction of 287-D.

Do I need written permission from the owner of the building where the game will be held before I grant a license?

RSA 287-D:2, II states that no one shall apply for a license without first obtaining written permission of the owner. The form for this purpose is supplied by the chief of police.

QUESTIONS OFTEN ASKED BY CHARITIES:

Why must I be registered with both the Secretary of State and the Attorney General?

All charities are required by law to register with the Attorney General under RSA 7:19, *et seq.* The definition of a charitable organization under the game of chance statute is, in part, one who has been incorporated with the Secretary of State as a nonprofit corporation for at least two years, and who is registered with the Attorney General if required.

What do you mean, registered with the Attorney General "if required."

The Attorney General registers all charities, but not all nonprofits are charities. The game of chance statute includes those organizations formed for religious, charitable, civic, veterans', or fraternal or church purposes, including police and firemen's organizations. The Attorney General does not register churches. In addition, fraternal organizations (American Legions, VFWs, etc.) are not required to register unless those organizations hold trust funds.

If my organization is not incorporated, can that requirement be waived?

No. The statute is very clear. The only waiver provision in the game of chance statute is the one that requires the application be filed with the police chief and the Attorney General 15 days prior to the first game of chance.

Do I need to attach all the forms requested by the application every time I file one?

If you have filed a complete application with the same police chief in a prior year, that includes the IRS letter and your articles of association, then these two documents do not need to be attached to a subsequent application, unless those documents have been amended. However, the list of bona fide members must be attached to every application.

I can't find my IRS letter of determination.

Call the IRS at the 800 number in your telephone book. The workers there are usually very cooperative and will get you a copy of your letter of determination very quickly.

I can't find my articles of agreement.

Call the Secretary of State's Corporation Division at 271-3244. They will provide you with a copy of your articles. Please note, however, that is a very busy office and it may take a few tries before you can get through.

I can't find enough members of our organization to run the games. Can the rental company providing the equipment also provide the dealers?

No. The statute is very clear. Only bona fide members of the applicant can run the games. Be sure you understand the definition of bona fide members, and specifically note a bona fide member is NOT one who is a member only to conduct games of chance.

MEMO TO CHIEFS OF POLICE DATED MAY 15, 2000

MEMO TO: All Police Chiefs

FROM: Terry M. Knowles, Registrar
Charitable Trusts Unit
(603) 271-3591
tknowles@doj.state.nh.us

DATE: May 15, 2000

On May 8, 2000, Governor Shaheen signed HB 1405 into law. This law redefines 50/50 games as raffles and exempts them from the games of chance statute. Effective July 7, 2000, 50/50s will be governed by RSA 287-A rather than RSA 287-D. A copy of the new law is enclosed for your information.

Starting July 7, 2000, any RSA 287-D application for a 50/50 game will be returned by this office, stating that the game does not fall under the jurisdiction of the statute.

Because we are shorthanded right now, I will not be sending a copy of the new law to the New Hampshire charities registered with this office. However, if you would like to refer an applicant to our web page, an explanation and a link to the new law has been added (address is below).

Feel free to call or e-mail either me or my paralegal, Audrey Blodgett (ablodgett@doj.state.nh.us), if you have any questions or comments.

TMK:ab
enclosure

CHAPTER 115, LAWS OF 2000

HB 1405 - FINAL VERSION

13april00.....4146-EBA

2000 SESSION

00-2401

08/09

HOUSE BILL 1405

AN ACT exempting 50/50 raffles from the laws regulating games of chance.

SPONSORS: Rep. Scanlan, Graf 11; Rep. Weber, Graf 11; Rep. Picconi, Graf 14

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill exempts 50/50 raffles from the laws regulating games of chance. This bill also defines "50/50 raffle."

Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

13april00.....4146-EBA

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand

AN ACT exempting 50/50 raffles from the laws regulating games of chance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

115:1 New Paragraph; Raffles; 50/50 Raffles; Definition. Amend RSA 287-A:1 by inserting after paragraph II the following new paragraph:

III. "50/50 raffle" means a raffle conducted by a charitable organization whereby moneys collected by sale of raffle tickets are split evenly between the prize winner or winners and the charitable organization after the raffle drawing.

115:2 Games of Chance; Definition of Games of Chance Amended. Amend RSA 287-D:1, II to read as follows:

II. "Games of chance" means any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, or 50/50 raffles as defined in RSA 287-A:1, III.

115:3 Effective Date. This act shall take effect 60 days after its passage.

(Approved: May 8, 2000)

(Effective Date: July 7, 2000)

MEMO TO CHIEFS OF POLICE DATED APRIL 9, 2002

MEMO TO: All Police Chiefs

FROM: Terry M. Knowles, Registrar
Charitable Trusts Unit
(603) 271-3591
tknowles@doj.state.nh.us

RE: Games of Chance Statute, RSA 287-D

DATE: April 9, 2002

On April 1, 2002, Governor Shaheen signed HB 1222 into law as Chapter 17, Laws of 2002. This law exempts ice-out contests from the games of chance statute, and is effective May 31, 2002. A copy of the new law is enclosed for your information.

As of the effective date, any application filed under RSA 287-D for ice-out contests will be returned by this office with a letter stating the contest is exempt from the game of chance application process.

A copy of this memo and accompanying law will be posted on our web site: www.state.nh.us/nhdoj/CHARITABLE/char.html. You can refer applicants to that web site for further information. In addition, this memo and law will be included in the next edition of the *Guide to the Games of Chance Statute RSA Chapter 287-D* published by this office.

If you have any questions regarding this matter, or any other questions regarding the games of chance statute, please contact our paralegal, Audrey Blodgett, at 271-3591 or by e-mail at ablodgett@doj.state.nh.us.

TMK:ab
enclosure

CHAPTER 17, LAWS OF 2002

CHAPTER 17

HB 1222 - FINAL VERSION

2002 SESSION

AN ACT exempting ice-out contests from the laws regulating games of chance.

SPONSORS: Rep. Ward, Graf 1

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill exempts ice-out contests from the laws regulating games of chance. This bill also defines "ice-out contest."

Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Two

AN ACT exempting ice-out contests from the laws regulating games of chance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

17:1 New Paragraph; Games of Chance; Ice-Out Contests; Definition. Amend RSA 287-D:1 by inserting after paragraph III the following new paragraph:

IV. "Ice-out contest" means a contest conducted by a charitable organization whereby a marker is placed on a frozen lake and the person most closely estimating the day and time the marker falls through the ice wins 1/2 the contest proceeds collected by the charitable organization.

17:2 Games of Chance; Definition of Games of Chance Amended. Amend RSA 287-D:1, II to read as follows:

II. "Games of chance" means any game involving gambling as defined by RSA 647:2, II, or any lottery prohibited by RSA 647:1, but shall not include any game involving the use of a slot machine or any other device in the nature of a slot machine, [or] 50/50 raffles as defined in RSA 287-A:1, III, or ice-out contests as defined in RSA 287-D:1, IV.

17:3 Effective Date. This act shall take effect 60 days after its passage.

(Approved: April 1, 2002)

(Effective Date: May 31, 2002)

MEMO TO CHIEFS OF POLICE DATED NOVEMBER 27, 2002

MEMO TO: All Police Chiefs

FROM: Audrey Blodgett, Paralegal
Charitable Trusts Unit
(603) 271-3591
ablodgett@doj.state.nh.us

RE: Game of Chance Statute, RSA 287-D

DATE: November 27, 2002

In an effort to streamline the process and reduce the amount of paper filed with these applications, we have amended the games of chance forms as follows:

- Application: Added a note that copies of the articles of agreement and IRS Letter of Determination need to be attached to the first application filed by the charitable organization but not to subsequent applications.
- Application: Clarified the request for date of incorporation in item 3 of the application.
- Financial Report: Clarified that a representative of the charitable organization must sign the financial report on page 2.

The amended forms can be found on our website (address is noted below). In addition, our *Guide to the Games of Chance Statute*, also found on our website, has been amended to include the new forms.

If you require hard copies of the forms and *Guide*, please call or e-mail me and I will send them to you.

ab

MEMO TO CHIEFS OF POLICE DATED OCTOBER 29, 2003

MEMO TO: All Police Chiefs

FROM: Audrey Blodgett, Paralegal
Charitable Trusts Unit
(603) 271-3591
audrey.blodgett@doj.nh.gov

RE: Games of Chance Statute, RSA 287-D

DATE: October 29, 2003

Laws of 2003, Chapter 315 amended RSA 287-D. Attached is a copy of the new chapter. I have also updated our *Guide to the Game of Chance Statute*, which has been posted on our web site. I remind you that also on our web site are the Applications for License to Conduct Games of Chance and the Games of Chance Financial Report forms.

If you require hard copies of any of the documents, feel free to contact me and I will mail them to you.

If you require more information regarding the games of chance statute, please call.

Enclosure

CHAPTER 315, LAWS OF 2003

AN ACT relative to operators of bingo and games of chance.

SPONSORS: Rep. Heon, Straf 67; Rep. Davidson, Rock 82; Rep. Boyce, Belk 31; Sen. Boyce, Dist 4; Sen. Green, Dist 6; Sen. Sapareto, Dist 19

COMMITTEE: Ways and Means

ANALYSIS

This bill changes the prohibition of game operators from those with criminal offenses to those with felonies.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to operators of bingo and games of chance.

Be it Enacted by the Senate and House of Representatives in General Court convened:

315:1 Operation of Games of Chance. Amend RSA 287-D:2-a, V(c) to read as follows:

(c) That neither the applicant nor any member of the charitable organization who will be participating in the operation of the games of chance has been convicted of [~~any crime~~] ***a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court***, or has violated the statutes or rules governing charitable gambling.

315:2 Operation of Games of Chance. Amend RSA 287-D:2-b, VI to read as follows:

VI. No person who has been convicted of [~~any criminal offense~~] ***a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court***, or who has violated any of the statutes or rules governing charitable gambling in the past in this or any other state shall operate a game of chance licensed under this chapter, or rent, lease,

sublease, or otherwise provide any hall or game of chance paraphernalia for the conduct of games of chance licensed under this chapter.

315:3 License Applications. Amend RSA 287-E:5, V (c) to read as follows:

(c) That neither the applicant nor any member of the charitable organization who will be participating in the operation of the bingo games *and sale of lucky 7 tickets* has been convicted of ~~[any crime]~~ ***a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court,*** or has violated the statutes or rules governing charitable gambling.

315:4 Operation of Bingo Games and Sale of Lucky 7. Amend RSA 287-E:7, VI to read as follows:

VI. No person who has been convicted of ~~[any criminal offense]~~ ***a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court,*** or who has violated any of the statutes or rules governing charitable gambling in the past in this or any other state shall operate a bingo game ***or participate in the sale of lucky 7 tickets*** licensed under this chapter, or rent, lease, sublease, or otherwise provide any hall or bingo paraphernalia for the conduct of bingo licensed under this chapter.

315:5 Effective Date. This act shall take effect upon its passage.

(Approved: Enacted in accordance with Article 44, Part II, N.H. Constitution, without signature of Governor, July 22, 2003)

(Effective Date: July 22, 2003)